

**SPECIAL TERMS AND CONDITIONS FOR  
COMMERCIAL PURCHASES**

**WESTINGHOUSE SAVANNAH RIVER CO., LLC**  
**SAVANNAH RIVER SITE**  
**AIKEN, SC 29808**

**Articles apply only if specified in the order.**

**Change Bar indicates text of Article has changed  
from Revision 3**

**\*Incorporated by reference to appropriate FAR  
Clause see (<http://www.arnet.gov/far>) and DEAR  
Clause see (<http://professionals.pr.doe.gov>)**

<u>Article</u>	<u>Page No.</u>
1. INTEGRATION OF ENVIRONMENT, SAFETY AND HEALTH INTO WORK PLANNING AND EXECUTION.....	1
2. ENVIRONMENT, SAFETY, AND HEALTH COMPLIANCE - ALTERNATIVE I.....	3
3. ENVIRONMENT, SAFETY, AND HEALTH COMPLIANCE - ALTERNATIVE II .....	3
4. ENVIRONMENT, SAFETY, AND HEALTH COMPLIANCE - ALTERNATIVE III .....	5
5. WORKPLACE SUBSTANCE ABUSE PROGRAM.....	6
6. GENERAL EMPLOYEE TRAINING AND ANNUAL REFRESHER TRAINING FOR SUBCONTRACT EMPLOYEES .....	7
7. SECURITY EDUCATION REQUIREMENTS FOR SUBCONTRACTORS .....	8
8. WORK ON WSRC, GOVERNMENT OR OTHER PREMISES .....	8
9. GOVERNMENT PROPERTY.....	10
10. LIMITATION OF FUNDS .....	12
11. SECURITY .....	13
12. COUNTERINTELLIGENCE .....	14
13. FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR.....	14
14. COMPLIANCE WITH EMPLOYEE CONCERNS .....	15
15. NON-PROLIFERATION.....	15
16. SCIENTIFIC AND TECHNICAL INFORMATION.....	15
17. COPYRIGHTS FOR WSRC DIRECTED TECHNICAL PERFORMANCE.....	16
18. GENERAL CONDITIONS OF EQUIPMENT RENTAL.....	16
*19. SERVICE CONTRACT ACT OF 1965 AS AMENDED (MAY 1989).....	18

*20. SERVICE CONTRACT ACT (SCA) MINIMUM WAGES AND FRINGE BENEFITS (MAY 1989). .....	18
*21. STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989).....	18
*22. FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 1989).....	18
*23. FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MAY 1989).....	18
*24. GOVERNMENT PROPERTY FURNISHED "AS IS" (APR 1984) .....	19
*25. UTILIZATION OF SMALL BUSINESS CONCERNS (OCT 1999) .....	19
*26. SMALL BUSINESS SUBCONTRACTING PLAN (OCT 1999) .....	19
*27. RIGHTS IN DATA – GENERAL (JUN 1987) ...	19
*28. CLASSIFICATION/ DECLASSIFICATION (SEP 1997) .....	19
*29. FILING OF PATENT APPLICATIONS- CLASSIFIED SUBJECT MATTER (APR 1984) ..	19

**1. INTEGRATION OF ENVIRONMENT,  
SAFETY AND HEALTH INTO WORK  
PLANNING AND EXECUTION**

- A. For the purpose of this Article,
- (1) Safety encompasses environment, safety and health, including pollution prevention and waste minimization; and
  - (2) Employees include Subcontractor and lower-tier subcontractor employees.
- B. In performing work under this Subcontract, the Subcontractor and any lower-tier Subcontractor(s), shall perform work safely, in a manner that ensures adequate protection for employees, the public, and the environment, and shall be accountable for the safe performance of work. The Subcontractor shall exercise a degree of care commensurate with the work and the associated hazards. The Subcontractor shall ensure that management of environment, safety and health (ES&H) functions and activities becomes an integral, but visible part of the Subcontractor's work planning and execution processes. The Subcontractor shall, in the performance of work, ensure that:
- (1) Line management is responsible for the protection of employees, the public, and the environment. Line management includes those subcontractor and lower-tier subcontractor employees managing or supervising employees performing work.
  - (2) Clear and unambiguous lines of authority and responsibility for ensuring ES&H are

- established and maintained at all organizational levels.
- (3) Personnel possess the experience, knowledge, skills, and abilities that are necessary to discharge their responsibilities.
  - (4) Resources are effectively allocated to address ES&H, programmatic, and operational considerations. Protecting employees, the public, and the environment is a priority whenever activities are planned and performed.
  - (5) Before work is performed, the associated hazards are evaluated and an agreed-upon set of ES&H standards and requirements are established which, if properly implemented, provide adequate assurance that employees, the public, and the environment are protected from adverse consequences.
  - (6) Administrative and engineering controls to prevent and mitigate hazards are tailored to the work being performed and associated hazards. Emphasis should be on designing the work and/or controls to reduce or eliminate the hazards and to prevent accidents and unplanned releases and exposures.
  - (7) The conditions and requirements to be satisfied for operations to be initiated and conducted are established and agreed-upon by WSRC and the Subcontractor. These agreed-upon conditions and requirements of the Subcontract are binding upon the Subcontractor. The extent of documentation and level of authority for agreement shall be tailored to the complexity and hazards associated with the work.
- C. The Subcontractor and any lower-tier Subcontractor(s), shall manage and perform work in accordance with Article 2 of these Special Terms and Conditions for Commercial Purchases or a documented Worker Protection Plan (WPP) that fulfills all conditions in paragraph B. of this Article to the degree specified in Article 3 or 4 Special Terms and Conditions for Commercial Purchases as indicated applicable to this subcontract Documentation in the subcontract shall describe how the Subcontractor will:
- (1) Define the Work to be performed;
  - (2) Identify and analyze hazards associated with the work;
  - (3) Develop and implement hazard controls;
  - (4) Perform work within controls; and
  - (5) Provide feedback on adequacy of controls and continue to improve safety management.
- D. The subcontract shall describe how the Subcontractor will establish, document, and implement safety performance objectives, performance measures, and commitments in response to Subcontract requirements and funding limits while maintaining the integrity of the WPP. The subcontract shall also describe how the Subcontractor will measure WPP effectiveness.
- E. The Subcontractor shall submit to the Purchasing Representative documentation of its WPP for review and acceptance. The Purchasing Representative will establish dates for submittal, discussions, and revisions to the WPP. The Purchasing Representative will provide guidance on preparation, content, review, and acceptance of the WPP. On an annual basis, the Subcontractor shall review and update, for WSRC acceptance, its safety performance objectives, performance measures, and commitments consistent with, and in response to, Subcontract requirements, funding limits and direction. Resources shall be identified and allocated to meet the safety objectives and performance commitments as well as maintain the integrity of the entire WPP. Accordingly, the subcontract shall be integrated with the Subcontractor's business processes, as applicable to the Scope of Work contained in this subcontract, for work planning, budgeting, authorization, execution, and change control.
- F. The Subcontractor and any lower-tier Subcontractor(s), shall comply with, and assist WSRC in complying with, ES&H requirements of all applicable laws and regulations, and applicable directives identified in the Article of this Subcontract on Laws, Regulations, and DOE Directives. The Subcontractor shall cooperate with Federal and non-Federal agencies having jurisdiction over ES&H matters under this Subcontract.
- G. The Subcontractor shall promptly evaluate and resolve any noncompliance with applicable ES&H requirements including those specified in the subcontract. If the Subcontractor fails to provide resolution or, if at any time, the Subcontractor's acts or failure to act causes substantial harm or an imminent danger to the environment or health and safety of employees or the public, the Purchasing Representative may issue an order stopping work in whole or in part. Any stop work order issued by the Purchasing Representative under this Article (or issued by the Subcontractor to a lower-tier subcontractor shall be without prejudice to any other legal or contractual rights of WSRC. In the event that

the Purchasing Representative issues a stop work order, an order authorizing the resumption of the work may be issued at the discretion of the Purchasing Representative. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this Article.

- H. WSRC shall hold the Subcontractor responsible for compliance with the ES&H requirements applicable to this Subcontract, including performance of work by any lower-tier subcontractor(s).

## **2. ENVIRONMENT, SAFETY, AND HEALTH COMPLIANCE - ALTERNATIVE I**

*(Compliance by the Subcontractor with the requirements of this Article 2 of these Special Terms and Conditions for Commercial Purchases shall satisfy any/all requirements of Article 1 of these Special Terms and Conditions for Commercial Purchases, "Integration Of Environment, Safety and Health Into Work Planning And Execution", applicable to the scope of work contained in this Subcontract.)*

- A. The Subcontractor, and any lower-tier Subcontractor(s), shall take all reasonable precautions in the performance of the work under this Subcontract to protect the environment, safety, and health of employees and members of the public. All work shall be performed to include lower-tier subcontracted work in compliance with all applicable WSRC/DOE environmental, safety, and health requirements, orders, and procedures including related reporting requirements. The WSRC Purchasing Representative shall notify the Subcontractor in writing of any noncompliance with the provisions of this Article and the corrective action to be taken. After receipt of such notice, the Subcontractor shall immediately take corrective action. In the event that the Subcontractor fails to take corrective action and comply with said WSRC/DOE regulations, requirements and procedures the WSRC Purchasing Representative may, without prejudice to any other legal or contractual rights of WSRC, issue an order stopping work in whole or in part. An order authorizing the resumption of work may be issued at the discretion of the Purchasing Representative. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in

connection with, any work stoppage ordered in accordance with this Article.

- B. Prior to the start of work under this subcontract, the subcontractor shall provide to the WSRC Purchasing Representative a letter acknowledging a Corporate Safety and Health Policy and confirmation of compliance with WSRC procedures.
- C. The Subcontractor shall designate a safety and health professional or representative, as specified in the subcontract. The designation must include the person's qualifications and duties.

## **3. ENVIRONMENT, SAFETY, AND HEALTH COMPLIANCE - ALTERNATIVE II**

*(Compliance by the Subcontractor with the requirements of this Article 3 of these Special Terms and Conditions for Commercial Purchases shall satisfy any/all requirements of Article 1 of these Special Terms and Conditions for Commercial Purchases, "Integration Of Environment, Safety and Health Into Work Planning And Execution", applicable to the scope of work contained in this Subcontract.)*

- A. The Subcontractor and any lower-tier subcontractor(s) shall take all reasonable precautions in the performance of the work under this Subcontract to protect the environment, safety and health of employees and members of the public, and shall comply with OSHA and all other applicable federal, state and local regulatory requirements. The subcontractor and any lower-tier subcontractor shall comply with site-specific ES&H requirements when specified in the subcontract. The WSRC Purchasing Representative shall notify the Subcontractor in writing of any noncompliance with the provisions of this Article. After receipt of such notice, the Subcontractor shall immediately take corrective action. In the event that the Subcontractor fails to take corrective action and comply with said regulations and requirements, the WSRC Purchasing Representative may, without prejudice to any other legal or contractual rights of WSRC, issue an order stopping work in whole or in part. An order authorizing the resumption of work may be issued at the discretion of the Purchasing Representative. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this Article.

- B. Corporate Worker Protection Plan (WPP)

The Subcontractor shall possess and maintain a

corporate Worker Protection Plan (WPP) which implements the OSHA requirements applicable to the normal course of the Subcontractor's business. Prior to the start of work under this Subcontract, the Subcontractor shall provide to the WSRC Procurement Representative a copy of the WPP and sample Task Specific Plans (TSP) (based on a minimum of three tasks in the scope of work) for review and acceptance by the appropriate WSRC organization(s). Note: Subcontractor is responsible for conducting hazard analysis and documenting additional TSPs. Work under this Subcontract shall not commence until the WPP and TSPs have been accepted by WSRC. The Subcontractor shall provide a copy of the accepted WPP and TSP to any lower-tier Subcontractor(s). The Subcontractor's employees and the employees of any lower-tier Subcontractor(s), shall comply with the WPP and TSPs in the performance of the work under this Subcontract. The WPP shall meet the following minimum requirements:

- (1) Shall include management policies that provide for clear goals, responsibilities, authority, and accountability for meeting loss control objectives.
  - (2) Shall include the implementation of applicable local, state, federal, environment, safety and health requirements that are relevant to the scope of work, including ANSI C2-1981, "National Electrical Safety Code", and NFPA 70E, "Standard for Electrical Safety Requirements for Employee Workplaces";
  - (3) Shall provide employee guidance on internal engineering controls, precautions, and requirements on personal protective equipment (PPE) to minimize, control and/or prevent employee exposure to include equipment/property loss;
  - (4) Shall include Task Specific Plans that include hazard identification and control measures that provide for safe work practices and employee training (i.e., 1) Define Scope of Work, 2) Identify and Analyze Hazards, 3) Develop and Implement Controls, 4) Perform Work within Controls, 5) Provide Feedback, and Continuous Improvement.)
- C. The Subcontractor shall provide the STR copies of Material Safety Data Sheets for all chemicals brought to SRS prior to the initial use of such chemicals. In addition, the Subcontractor shall provide the STR with a current inventory on a monthly basis for chemicals stored on-site for thirty (30) or more days per EPCRA/CERCLA.

All chemicals stored on-site shall follow NFPA storage guidelines.

- D. The Subcontractor shall designate a safety and health professional or representative as specified in the Subcontract. The designation must include the person's qualifications and duties and be documented in the Subcontractor's Worker Protection Plan.

E. Environmental Compliance

The Subcontractor and any lower-tier subcontractor(s) shall comply with all applicable environmental protection laws, Executive Orders, ordinances, regulations, directives, and codes. Upon request, the Subcontractor shall submit an Environmental Compliance Plan (ECP) outlining the methods proposed to address the environmental requirements specified in the scope of work. The ECP shall specify the person responsible for ensuring the requirements are met.

F. Site Reporting Requirements

The Subcontractor shall immediately notify the STR or WSRC Purchasing Representative of any event/condition that may require reporting to the DOE. Further, the Subcontractor shall cooperate with any WSRC or DOE critique, analysis, or investigation for such events/conditions. Events/conditions that require reporting to DOE are defined in DOE Manual 231.1-2 (DOE M 231.1-1-2) and can include (but are not limited to):

- (1) Operational emergencies,
- (2) Occupational injury or illness (including exposures to hazardous substances in excess of allowable limits) and near misses,
- (3) Fires/explosions,
- (4) Hazardous energy control failures,
- (5) Operations shutdown directed by management for safety reasons,
- (6) Environmental release of radioactive materials, hazardous substances, regulated pollutants, oil spills, etc.
- (7) Violation of Federal Motor Carrier Safety Regulations or Hazardous Material Regulations, and
- (8) Loss damage, theft, or destruction to government property (including damage to ecological resources like wetlands, critical habitats, historical/archeological sites, etc.),
- (9) Spread of radioactive contamination or loss of control of radioactive materials,
- (10) Personnel radioactive contaminations or exposures, and
- (11) Violations or procedures.

In addition, the Subcontractor shall preserve conditions surrounding or associated with the

event for continued investigation unless such actions interfere with establishing a safe condition.

**4. ENVIRONMENT, SAFETY, AND  
HEALTH COMPLIANCE -  
ALTERNATIVE III**

*(Compliance by the Subcontractor with the requirements of this Article 4 of these Special Terms and Conditions for Commercial Purchases shall satisfy any/all requirements of Article 1 of these Special Terms and Conditions for Commercial Purchases, "Integration Of Environment, Safety and Health Into Work Planning And Execution", applicable to the scope of work contained in this Subcontract.)*

A. The Subcontractor and any lower-tier subcontractor(s) shall take all reasonable precautions in the performance of the work under this Subcontract to protect the environment, safety and health of employees and members of the public, and shall comply with OSHA and all other applicable federal, state and local regulatory requirements. The subcontractor and any lower-tier subcontractor shall comply with site-specific ES&H requirements when specified in the subcontract. The WSRC Purchasing Representative shall notify the Subcontractor in writing of any noncompliance with the provisions of this Article. After receipt of such notice, the Subcontractor shall immediately take corrective action. In the event that the Subcontractor fails to take corrective action and comply with said regulations and requirements, the WSRC Purchasing Representative may, without prejudice to any other legal or contractual rights of WSRC, issue an order stopping work in whole or in part. An order authorizing the resumption of work may be issued at the discretion of the WSRC Purchasing Representative. The Subcontractor shall not be entitled to an extension of time or additional fee or damages by reason of, or in connection with, any work stoppage ordered in accordance with this Article.

**B. Compliance Statement/Corporate Worker Protection Plan (WPP)**

The Subcontractor shall possess and maintain a corporate Worker Protection Plan (WPP) which implements the OSHA requirements applicable to the normal course of the Subcontractor's business. Prior to the start of work under this Subcontract, the Subcontractor shall provide to the WSRC Procurement Representative a copy of the WPP for review and acceptance by the appropriate WSRC organizations. In lieu of

submission of the WPP for review and acceptance, a compliance statement certifying that the above WPP is in effect may be acceptable, if it is determined by WSRC that work to be performed under this subcontract is non-hazardous. The Subcontractor's employees and the employees of any lower-tier subcontractor(s), shall comply with the WPP in the performance of the work under this Subcontract. Work under the Subcontract shall not commence until the above WPP/compliance statement has been received and accepted by WSRC. If only a compliance statement is required as provided above, WSRC reserves the right to request and review the Subcontractor's WPP at any time during the performance of the subcontract. The Subcontractor shall provide a copy of the WPP to any lower-tier subcontractor(s). The WPP shall meet the following minimum requirements:

- (1) Shall include management policies that provide for clear goals, responsibilities, authority, and accountability for meeting loss control objectives;
- (2) Shall include the implementation of applicable local, state, federal, environment, safety and health requirements that are relevant to the scope of work, including ANSI C2-1981, "National Electrical Safety Code", and NFPA 70E, "Standard for Electrical Safety Requirements for Employee Workplaces";
- (2) Shall provide employee guidance on task hazards, engineering controls, precautions, and requirements on Personal Protective Equipment (PPE) to minimize, control and/or prevent employee exposure to include equipment/property loss;

C. The Subcontractor shall provide the STR copies of Material Safety Data Sheets for all chemicals brought to SRS prior to the initial use of such chemicals. In addition, the Subcontractor shall provide the STR with a current inventory on a monthly basis for chemicals stored on-site for thirty (30) or more days per EPCRA/CERCLA. All chemicals stored on-site shall follow NFPA storage guidelines.

D. The Subcontractor shall designate a safety and health professional or representative as specified in the Subcontract. The designation must include the person's qualifications and duties and be documented in the Subcontractor's Worker Protection Plan.

**E. Environmental Compliance**

The Subcontractor and any lower-tier subcontractor(s) shall comply with all applicable

environmental protection laws, Executive Orders, ordinances, regulations, directives, and codes. Upon request, the Subcontractor shall submit an Environmental Compliance Plan (ECP) outlining the methods proposed to address the environmental requirements specified in the scope of work. The ECP shall specify the person responsible for ensuring the requirements are met.

F. Site Reporting Requirements

The Subcontractor shall immediately notify the STR or WSRC Purchasing Representative of any event/condition that may require reporting to the DOE. Further, the Subcontractor shall cooperate with any WSRC or DOE critique, analysis, or investigation for such events/conditions. Events/conditions that require reporting to DOE are defined in DOE Manual 231.1-2 (DOE M 231.1-1-2) and can include (but are not limited to):

- (1) Operational emergencies,
- (2) Occupational injury or illness (including exposures to hazardous substances in excess of allowable limits) and near misses,
- (3) Fires/explosions,
- (4) Hazardous energy control failures,
- (5) Operations shutdown directed by management for safety reasons,
- (6) Environmental release of radioactive materials, hazardous substances, regulated pollutants, oil spills, etc.
- (7) Violation of Federal Motor Carrier Safety Regulations or Hazardous Material Regulations, and
- (8) Loss damage, theft, or destruction to government property (including damage to ecological resources like wetlands, critical habitats, historical/archeological sites, etc.),
- (9) Spread of radioactive contamination or loss of control of radioactive materials,
- (10) Personnel radioactive contaminations or exposures, and
- (11) Violations or procedures.

In addition, the Subcontractor shall preserve conditions surrounding or associated with the event for continued investigation unless such actions interfere with establishing a safe condition.

**5. WORKPLACE SUBSTANCE ABUSE PROGRAM**

A. Fitness for Duty

- (1) (i) The Supplier shall advise employees and the employees of lower tier subcontractors and agents that it is the policy of WSRC to prohibit the use,

possession, sale and distribution of alcohol, drugs or other controlled substance within the limits of the Savannah River Site (SRS), and/or any off-Site facilities, and to prohibit the presence of individuals who have such substances in the body for non-medical reasons. Any Supplier employee who is found in violation of the policy may be removed or barred from the site.

- (ii) The Supplier agrees to advise its employees and the employees of lower-tier subcontractors of the above policy prior to assignment to the Site and to maintain documentation that such advice has been given.
- (2) WSRC will collect urine specimens when Supplier employees are processed for badging. WSRC will send these specimens to a consultant for testing and verification. The testing process may take up to five (5) days to obtain results. In the event of "positive" findings, the Supplier will be notified and shall bring the individual to the Badge Office for an "Exit Conference". The Supplier then agrees to promptly remove such individual from the Savannah River Site and return the badge to the WSRC Subcontractor Badge Office.
- (3) The Supplier agrees to secure the written consent of employees to release results of urine tests to the designated WSRC representative. WSRC agrees to use such results solely in connection with its decision as to whether to permit a Supplier employee, lower-tier subcontractor employee or agent to access Savannah River Site property.
- (4) WSRC will also conduct for-cause and random drug and alcohol testing on all employees badged by WSRC. The Supplier agrees to comply with and secure the compliance of its employees and employees of lower-tier subcontractors with this testing. In the event of "positive" findings, the Supplier agrees to promptly remove such individual from the Savannah River Site and return his or her badge to the WSRC Subcontractor Badging Office.
- (5) A Breath Alcohol Test will be given during the initial badging process and the results will be available immediately. In the event of "positive" findings, the Supplier's employee will not be badged, shall be issued a temporary pass, and will be escorted offsite by a Supplier's Representative.

B. Suitability for Employment

- (1) Supplier employees, including employees of lower-tier subcontractors, who are to be badged to permit Savannah River Site access, must successfully complete a Suitability for Employment process. As part of this process, the Supplier agrees to advise its employees and employees of lower-tier subcontractors that they will be required to complete certain forms, which authorize background investigations. These forms shall be submitted during the badging process.
- (2) Employees will be issued a photo badge and allowed site access on the first reporting day. In the event a Supplier's employee subsequently fails to successfully complete the background investigation, the Supplier agrees to promptly remove such individual from the site and to return the badge to the WSRC Subcontractor Badging Office.
- (3) Supplier agrees to advise its employees of the above requirement prior to assignment to the Savannah River Site and to maintain documentation that such advice has been given.

#### **6. GENERAL EMPLOYEE TRAINING AND ANNUAL REFRESHER TRAINING FOR SUBCONTRACT EMPLOYEES**

*The following terms are applicable if performance of this Order will require the Supplier/Subcontractor's employee(s) to perform work on SRS premises for more than ten (10) working days.*

##### **A. General Employee Training (GET)**

- (1) The Subcontractor shall inform his employees and the employees of his lower tier subcontractors and agents that it is the policy of Westinghouse Savannah River Company to adhere to the requirements contained in the DOE Order entitled "Personnel Selection, Qualification and Training Requirements," which requires any individual, employed either full or part-time at any DOE reactor or non-reactor facility to receive selected general training.
- (2) **Successful Completion Required**  
Said employees, referred to in the remainder of this document as "individual", must successfully complete the training known as "General Employee Training" (GET) as offered by the SRS. The GET sessions are given by a Savannah River Site authorized GET instructor. There are three categories of GET.

- (i) Category 1 consists of viewing a video that lasts for one hour. This category is limited to delivery personnel, visitors, and other temporary personnel that require badged access to the general site and property protection areas and are typically on site greater than 10 days, but not consecutively, in a calendar year.
- (ii) Category 2 consists of viewing a video and a written examination, and lasts for approximately two hours. This category would apply to visitors or other temporary personnel that require badged access to the general site and property protection areas and are on site greater than 10 days consecutively in a calendar year, and additional training is not required as determined by WSRC.
- (iii) Category 3 consists of eight hours of training and includes instructor lecture along with audio and visual aids and a written examination. This category applies to individuals who require badged access to the general site, property protection areas, or security controlled areas and additional training is required, as determined by WSRC.

- (3) **Successful Completion Defined:** Successful completion occurs when the individual

- (i) Is scheduled for GET,
- (ii) Attends the GET session,
- (iii) Obtains a test score of 70% or greater on the written examination, if required, (100% is the highest obtainable score), and
- (iv) Properly completes all documents (rosters, exam answer sheet, etc.).

- (4) **Unsuccessful Completion Defined:** If the individual fails to successfully complete GET, the individual is given a failure notice and is to notify the Subcontract Technical Representative (STR) for rescheduling for remedial training or for a re-test. The individual will be allowed several chances to successfully complete the GET. Continued failure to successfully complete GET will result in resolution by the STR.

- (5) **Scheduling for GET**

The STR shall direct the individual to the appropriate training center to attend the GET session. GET training is scheduled subject to demand.

- (6) **Records**

GET records will be maintained by WSRC.

##### **B. Annual Refresher Training**

Refresher Training is required after an individual's initial successful completion of all categories of GET, regardless of the individual's present employer. Category 1 and Category 2 GET training must be repeated annually. For Category 3, successful completion of Consolidated Annual Training (CAT) is required. The subcontractor is responsible for scheduling its employees for this training. The STR may be contacted for assistance.

- C. Upon providing proof of successful completion of GET either at another DOE facility, or while employed by a firm other than the Supplier under this Order, the employee will not be required to repeat this training.

## **7. SECURITY EDUCATION REQUIREMENTS FOR SUBCONTRACTORS**

The following items are applicable if performance of this subcontract will require the Supplier/Subcontractor's employee(s) to receive a security badge.

- A. Subcontractor Security Education Coordinator
  - (1) If this Order will require a force of more than thirty (30) subcontract employees receive badges, then the Supplier/Subcontractor shall provide to the WSRC Security Education Office, the name of its representative appointed to administer its Security Education Program. This representative shall be referred to as the Subcontractor Security Education Coordinator (SSEC).
  - (2) If this Order will require that less than thirty (30) subcontract employees receive badges, then the WSRC Subcontract Technical Representative (STR) will perform the activities discussed in this Supplement.
- B. Company Roster

The SSEC will be responsible for providing the STR with a roster of all subcontract personnel receiving a badge. At a minimum the data shall include name, social security number, and work telephone number, clearance level and place where work is generally performed. This list shall be kept current and updated every sixty-(60) days.
- C. Initial Briefing

The SSEC will ensure that all subcontract personnel, regardless of clearance level, receive an Initial Security Briefing... This briefing consists of videotape shown during initial General Employee Training (GET), or at the time of badging for those individuals not required to attend GET.

- D. Comprehensive Briefing

If subcontract personnel have a clearance at the inception of this Order, or receive a clearance at any time during the course of the Order, the SSEC/STR will ensure that those subcontract employees receive a Comprehensive Briefing from WSRC.
- E. Annual Refresher Briefing

The SSEC/STR shall ensure that all subcontract employees receive, at least once in a twelve- (12) month period, an Annual Security Refresher briefing from WSRC. This briefing is provided during GET Refresher Training.
- F. Foreign Travel Briefing

If a subcontract employee plans a trip to a sensitive country, whether on official business or for pleasure, the SSEC/STR is responsible for ensuring that the individual receives a Foreign Travel Briefing from WSRC before departing and a Debriefing upon return. The OPSEC Officer is responsible for these Briefings.
- G. Badge Retrieval at Termination

The Supplier is responsible for ensuring that badges are returned or accounted for when a subcontract employee terminates employment or when an Order is completed. The employee must report to Employment Processing Center, for proper completion of out-processing and badge return. This effort should be coordinated with the WSRC STR.
- H. Termination Briefing

When a subcontract employee terminates employment or is reassigned, the SSEC/STR will ensure that a Termination Briefing by WSRC is given and the appropriate forms are executed. Briefing materials and appropriate forms are provided by WSRC.

## **8. WORK ON WSRC, GOVERNMENT OR OTHER PREMISES**

- A. As to the Work to be done or performed by Supplier on premises owned or controlled by WSRC, the Government, or the premises of other WSRC subcontractors, Supplier assumes the entire responsibility and liability for losses, expenses, damages, demands, and claims in connection with or arising out of any injury including death, or damage to property, sustained in connection with or to have arisen out of the acts or omissions of Supplier or its Subcontractors, agents, or employees. Supplier shall indemnify and hold harmless the Government and WSRC from and against any and all claims, demands, actions, causes of action including those brought by an employee of the Supplier or a State Industrial Insurance



subcontractor under a Workers/ Workmen's Compensation Act or statute, suits, damages, expenses including attorney fees and liabilities whatsoever resulting from or arising in any manner on account of or by reason of any injury to or death of any person or any damage to or loss of property attributable directly or indirectly to the acts or omissions of Supplier or its Subcontractors, agents, or employees arising out of, or in any way connected with the performance of this Order, whether or not caused in any way by some act or omission, negligence or otherwise, of WSRC or the Government; provided however, that the Supplier's duty to indemnify shall not arise if such injury, death, destruction or loss is caused by the sole negligence of WSRC or the Government. Nothing in the foregoing shall be construed to require Supplier to indemnify and save harmless the Government and WSRC from any liability arising out of or resulting from a nuclear incident. To the extent necessary to execute the foregoing indemnification and as permitted by law, Supplier specifically waives any and all immunity provided by any industrial insurance or Workers/ Workmen's Compensation Act or statute.

B. When Supplier shall perform any part of the Work on the premises of the WSRC or the Government during the performance of this Order, the Supplier shall have in force and effect, policies of insurance conforming to the terms set forth in Paragraph C of this Article.

C. (1) The Supplier shall procure and thereafter maintain at its own expense, the following insurance:

(i) Workers' Compensation and Employer's Liability.

Limits of Liability: Worker's Compensation: Statutory limits in the jurisdiction wherein the Work is to be performed.

Employer's Liability: A minimum of \$1,000,000.

(ii) Comprehensive general liability including Bodily Injury and Property Damage.

Limits of Liability: A minimum of \$1,000,000 Combined Single Limit.

Endorsements: WSRC and the Government to be endorsed as Additional Insured.

Contractual Liability including all coverage endorsed on the basic policy.

(iii) Automobile Liability including Bodily Injury and Property Damage including All Owned, Non-Owned and Hired.

Limits of Liability: \$1,000,000 Combined Single Limit

Endorsements: WSRC and the Government to be endorsed as Additional Insured.

(2) Certificates of insurance evidencing that the requirements of this Article have been met shall be furnished to WSRC before work is commenced with respect to performance under this Order. The insurance requirements pursuant to the provisions of this Article shall be in such form and for such periods of time as WSRC may require or approve. Provisions shall be made for thirty days advance notice by mail to WSRC of change in or cancellation of such insurance. Insurance carriers satisfactory shall issue certificates to WSRC.

(3) In the event the Supplier fails to furnish such Certifications of Insurance, as required in Paragraph 2 hereinabove, prior to commencement of work or to continue to maintain such insurance during the performance of the Order, WSRC shall have the right to stop work and/or to withhold any payments or partial payments required to be made under this Order; and shall have the right to continue withholding any or all of said payments so long as the Supplier has not complied with the requirements of this Article.

(4) On contracts involving blasting or other hazardous operations, the Supplier's insurance shall specifically state that all blasting or such other hazardous operations are fully covered.

D. Supplier agrees to comply with and require its Subcontractors to comply with all applicable laws, rules, and regulations with respect to state industrial insurance or Workers/Workmen's Compensation, occupational disease, occupational safety and health, or withholding and payment of social security and federal and state income taxes. Supplier further agrees to indemnify WSRC and the Government against, and to save and hold harmless WSRC and the Government from, any and all liability and expense with respect to claims against WSRC or the Government which may result from the failure or alleged failure of Supplier or of any of its Subcontractors to comply therewith.

## **9. GOVERNMENT PROPERTY**

NOTE: If the total acquisition cost of all Government property furnished under this Order is \$100,000 or less, Paragraph E of this Article is deleted and the following is substituted in lieu thereof:

The Supplier shall be responsible and accountable for all Government property provided under this Order. The Supplier shall maintain adequate property control records in accordance with sound industrial practice and will make such records available for WSRC inspection at all reasonable times. The Supplier shall provide an annual inventory listing identifying all Government Property associated with this Order. The inventory shall include the following information for each property item: ID number, description, manufacturer, model number, serial number, acquisition value, condition, location, and primary user.

### **A. Government Property**

- (1) WSRC shall deliver to the Supplier, for use in connection with and under the terms of this Order, the Government property described elsewhere in the Order or specifications together with any related data and information that the Supplier may request and is reasonably required for the intended use of the property (hereinafter referred to as "Government property").
- (2) The delivery or performance dates for this Order are based upon the expectation that Government property suitable for use (except for property furnished "as-is") will be delivered to the Supplier at the times stated in the Order or if not so stated, in sufficient time to enable the Supplier to meet the Order delivery or performance dates.
- (3) If Government property is received by the Supplier in a condition not suitable for the intended use, the Supplier shall, upon receipt of it, notify the WSRC Purchasing Representative detailing the facts, and, as directed by the WSRC Purchasing Representative and at WSRC's expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Supplier, the WSRC Purchasing Representative shall make an equitable adjustment as provided in paragraph H of this article.
- (4) If Government property is not delivered to the Supplier by the required time, the WSRC Purchasing Representative shall, upon the Supplier's timely written request, make a

determination of the delay, if any, caused the Supplier and shall make an equitable adjustment in accordance with paragraph H of this article.

### **B. Changes in Government Property**

- (1) The WSRC Purchasing Representative may, by written notice,
  - (i) Decrease the Government property provided or to be provided under this Order, or
  - (ii) Substitute other Government property for the property to be provided by WSRC, or to be acquired by the Supplier for the Government, under this Order. The Supplier shall promptly take such action as the WSRC Purchasing Representative may direct regarding the removal, shipment, or disposal of the property covered by such notice.
- (2) Upon the Supplier's written request, the WSRC Purchasing Representative shall make an equitable adjustment to the Order in accordance with paragraph H of this article, if WSRC has agreed in the order to make the property available for performing this Order and there is any -
  - (i) Decrease or substitution in this property pursuant to subparagraph B (1) above; or
  - (ii) Withdrawal of authority to use this property, if provided under any contract or lease.

### **C. Title in Government Property**

- (1) The Government shall retain title to all Government property.
- (2) All Government property and all property acquired by the Supplier, title to which vests in the Government under this paragraph (collectively referred to as "Government property") are subject to the provisions of this article. Its incorporation into or attachment to any property not owned by the Government shall not affect title to Government property, nor shall Government property become a fixture or lose its identity as personal property as being attached to any real property.
- (3) Title to each item of facilities, special test equipment, and special tooling (other than that subject to a special tooling clause) acquired by the Supplier for WSRC under this Order shall pass to and vest in the Government when its use in performing this Order commences or when WSRC has paid for it, whichever is earlier, whether or not

- title previously vested in the Government.
- (4) If this Order contains a provision directing the Supplier to purchase material for which WSRC will reimburse the Supplier as a direct item of cost under this Order -
    - (i) Title to material purchased from a vendor shall pass to and vest in the Government upon the vendor's delivery of such material; and
    - (ii) Title to all other material shall pass to and vest in the Government upon -
      - (a) Issuance of the material for use in Order performance;
      - (b) Commencement of processing of the material or its use in Order performance; or
      - (c) Reimbursement of the cost of the material by WSRC, whichever occurs first.
- D. Use of Government Property  
The Government property shall be used only for performing this Order, unless otherwise provided in this Order or approved by the WSRC Purchasing Representative.
- E. Property Administration
- (1) The Supplier shall be responsible and accountable for all Government property provided under this Order and shall comply with DOE Property Management Regulations 41 CFR 109, as in effect on the date of this Order.
  - (2) The Supplier shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound industrial practice and the applicable provisions of Subpart 45.5 of the FAR and Subpart 945.5 of the DEAR. The Supplier shall provide an annual inventory as required in Federal Property Regulation 41 CFR 101 and the Department of Energy Property Management Regulation 41 CFR 109.
  - (3) If damage occurs to Government property, the risk of which has been assumed by WSRC or the Government under this Order, WSRC shall replace the items or the Supplier shall make such repairs as WSRC directs. However, if the Supplier cannot effect such repairs within the time required, Supplier shall dispose of the property as directed by the WSRC Purchasing Representative. When any property for which WSRC is responsible is replaced or repaired, the WSRC Purchasing Representative shall make an equitable adjustment in accordance with paragraph H
- of this article.
- (4) The Supplier understands that the Order price does not include any amount for repairs or replacement for which WSRC is responsible. The Supplier at its own expense shall accomplish repair or replacement of property for which the Supplier is responsible.
- F. Access  
WSRC and the Government and all their designees have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
- G. Risk of loss  
Unless otherwise provided in this Order, the Supplier assumes the risk of and shall be responsible for, any loss or destruction of, or damage to Government property upon its delivery to the Supplier or upon passage of title to the Government under paragraph C of this article. However, the Supplier is not responsible for reasonable wear and tear to Government property or for Government property properly consumed in performing this Order.
- H. Equitable Adjustment  
When this article specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes article. When appropriate, the WSRC Purchasing Representative may initiate an equitable adjustment in favor of WSRC. The right to an equitable adjustment shall be the Supplier's exclusive remedy. WSRC and the Government shall not be liable to suit for breach of contract for
- (1) Any delay in delivery of Government property;
  - (2) Delivery of Government property in a condition not suitable for its intended use;
  - (3) A decrease in or substitution of Government property; or
  - (4) Failure to repair or replace Government property for which WSRC or the Government are responsible.
- I. Final Accounting and Disposition of Government Property  
Upon completing this Order, or at such earlier dates as may be fixed by the WSRC Purchasing Representative, the Supplier shall submit, in a form acceptable to the WSRC Purchasing Representative, inventory schedules covering all items of Government property (including any resulting scrap) not consumed in performing this Order or delivered to WSRC. The Supplier shall

prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the WSRC Purchasing Representative. The net proceeds of any such disposal shall be credited to the Order price or shall be paid to WSRC as the WSRC Purchasing Representative directs.

J. Abandonment and Restoration of Supplier's Premises

Unless otherwise provided herein, WSRC -

- (1) May abandon any Government property in place, at which time all obligations of WSRC and the Government regarding such abandoned property shall cease; and
- (2) Has no obligation to restore or rehabilitate the Supplier's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon Order completion). However, if the Government property is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph H of this article may properly include restoration or rehabilitation costs.

K. Communications

All communications under this article shall be in writing.

L. Overseas Orders

If this Order is to be performed outside of the United States of America, its territories, or possessions, the words "Government" and "Government property" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government property," respectively.

**10. LIMITATION OF FUNDS**

NOTE: This article is applicable only if this Order is partially funded.

- A. Of the total price of this Order, the sum of \$\_\_\_\_\_ is presently available for payment and allotted to this Order. It is anticipated that additional funds will be allocated to the Order in accordance with the following schedule until the total price of the Order is funded:
- B. The Supplier agrees to perform or have performed work on this Order up to the point at which, if this Order is terminated pursuant to the Termination For Convenience of WSRC article of this Order, the total amount payable by WSRC (including amounts payable for subcontracts and settlement costs) pursuant to the Termination For Convenience of WSRC article would, in the exercise of reasonable judgment by the Supplier, approximate the total

amount at the time allotted to the Order. The Supplier is not obligated to continue performance of the work beyond that point. WSRC is not obligated in any event to pay or reimburse the Supplier more than the amount from time to time allotted to the Order, anything to the contrary in the Termination For Convenience of WSRC article notwithstanding.

- C. (1) It is contemplated that funds presently allotted to this Order will cover the work to be performed until\_\_\_\_\_.
- (2) If funds allotted are considered by the Supplier to be inadequate to cover the work to be performed until that date, or an agreed date substituted for it, the Supplier shall notify WSRC in writing when within the next 60 days the work will reach a point at which, if the Order is terminated pursuant to the Termination For Convenience of WSRC article of the Order, the total amount payable by WSRC (including amounts payable for subcontracts and settlement costs) pursuant to the Termination For Convenience of WSRC article will approximate 75 percent of the total amount then allotted to the Order.
- (3) (i) The notice shall state the estimated date when the point referred to in subparagraph C.(2) of this clause will be reached and the estimated amount of additional funds required to continue performance to the date specified in subparagraph C.(1) of this clause, or an agreed date substituted for it.
- (ii) The Supplier shall, sixty days in advance of the date specified in subparagraph C.(1) of this clause, or an agreed date substituted for it, advise WSRC in writing as to the estimated amount of additional funds required for the timely performance of the Order for a further period as may be specified in the Order or otherwise agreed to by the parties.
- (4) If, after the notification referred to in subdivision C.(3)(ii) of this clause, additional funds are not allotted by the date specified in subparagraph C.(1) of this clause, or an agreed date substituted for it, WSRC shall, upon the Supplier's written request, terminate this Order on that date or on the date set forth in the request, whichever is later, pursuant to the Termination For Convenience of WSRC article.

- D. When additional funds are allotted from time to time for continued performance of the work under this Order, the parties shall agree on the applicable period of order performance to be covered by these funds. The provisions of paragraphs B and C of this clause shall apply to these additional allotted funds and the substituted date pertaining to them, and the Order shall be modified accordingly.
- E. If, solely by reason of WSRC's failure to allot additional funds in amounts sufficient for the timely performance of this Order, the Supplier incurs additional costs or is delayed in the performance of the work under this Order, and if additional funds are allotted, an equitable adjustment shall be made in the price or prices (including appropriate target, billing, and ceiling prices where applicable) of the work to be performed.
- F. WSRC may at any time before termination, and, with the consent of the Supplier, after notice of termination, allot additional funds for this Order.
- G. The provisions of this clause with respect to termination shall in no way be deemed to limit the rights of WSRC under the default article of this Order. This clause shall become inoperative upon the allotment of funds for the total price of the work under this Order except for rights and obligations then existing under this clause.
- H. Nothing in this clause shall affect the right of WSRC to terminate this Order pursuant to the Termination for Convenience of WSRC article of the Order.

## **11. SECURITY**

### **A. Responsibility**

It is the Supplier's duty to safeguard all classified information, special nuclear material, and other DOE/WSRC property in its possession. The Supplier shall, in accordance with DOE/WSRC security and counterintelligence regulations and requirements, be responsible for safeguarding all classified, unclassified sensitive and proprietary information and protecting against sabotage, espionage, loss and theft of the classified, unclassified sensitive and proprietary matter in the Supplier's possession in connection with the performance of work under this Order. Except as otherwise expressly provided in this Order, the Supplier shall, upon completion or termination of this Order, transmit to WSRC any classified, unclassified sensitive, and proprietary matter in the possession of the Supplier or any person under the Supplier's control in connection with performance of this Order. If retention by

the Supplier of any classified, unclassified sensitive, and proprietary matter in the Supplier's possession is required after the completion or termination of the Order and such retention is approved by the WSRC Purchasing Representative, the Supplier shall complete a certificate of possession to be furnished to WSRC specifying the classified, unclassified sensitive, and proprietary matter in the Supplier's possession are to be retained. The certification shall identify the items and types or categories of matter retained, the conditions governing the retention of the matter, and the period of retention, if known. If the WSRC Purchasing Representative approves the retention, the security provisions of this Order shall continue to be applicable to the matter retained. Special nuclear material shall not be retained after the completion or termination of this Order.

### **B. Regulations**

The Supplier agrees to comply with all security and counterintelligence regulations and requirements of DOE/WSRC in effect on the date of award of this order.

### **C. Definition of Classified Information**

The term "Classified Information" means Restricted Data, Formerly Restricted Data, or National Security Information.

### **D. Definition of Restricted Data**

The term "Restricted Data" means all data concerning:

- (1) Design, manufacture, or utilization of atomic weapons;
- (2) The production of special nuclear material; or
- (3) The use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

### **E. Definition of Formerly Restricted Data**

The term "Formerly Restricted Data" means all data removed from the Restricted Data category under section 142d. of the Atomic Energy Act of 1954, as amended.

### **F. Definition of National Security Information**

The term "National Security Information" means any information or material, regardless of its physical form or characteristics, that is owned by, produced for or by, or is under the control of the United States Government, that has been determined pursuant to Executive Order 12958 or prior Executive Orders to require protection

against unauthorized disclosure, and which is so designated.

- G. Definition of Special Nuclear Material (SNM)  
SNM means (1) plutonium, uranium enriched in the isotope 233 or in the isotope 235, and any other material which pursuant to the provisions of Section 51 of the Atomic Energy Act of 1954, as amended, has been determined to be special nuclear material, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.
- H. Security Clearance of Personnel  
The Supplier shall not permit any individual to have access to any classified information, except in accordance with the Atomic Energy Act of 1954, as amended, Executive Order 12958, and DOE/WSRC regulations or requirements applicable to the particular level and category of classified information to which access is required.
- I. Criminal Liability  
It is understood that disclosure of any classified information relating to the work or services ordered hereunder to any person not entitled to receive it, or failure to safeguard any classified information that may come to the Supplier or any person under the Supplier's control in connection with work under this Order, may subject the Supplier, its agents, employees, or Subcontractors to criminal liability under the laws of the United States. (See the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.; 18 U.S.C. 793 and 794; and Executive Order 12958).
- J. Subcontracts and Purchase Orders  
Except as otherwise authorized in writing by the WSRC Purchasing Representative, the Supplier shall insert provisions similar to the foregoing in all subcontracts and purchase orders under this order.

## **12. COUNTERINTELLIGENCE**

- A. The Subcontractor shall take all reasonable precautions in the work under this subcontract to protect WSRC/DOE programs, facilities, technology, personnel, unclassified sensitive information and classified matter from foreign intelligence threats and activities conducted for governmental or industrial purposes, in accordance with DOE Order 5670.3, Counterintelligence Program; Executive Order 12333, U.S. Intelligence Activities; and other pertinent national and Departmental Counterintelligence requirements.
- B. The Subcontractor shall comply with requirements established by the DOE-SR

Counterintelligence Officer. The DOE-SR Counterintelligence Officer will be responsible for conducting defensive Counterintelligence briefings and debriefings of Subcontractor employees traveling to foreign countries or interacting with foreign nationals. The Subcontractor shall be responsible for requesting defensive Counterintelligence briefings and debriefings of Subcontractor employees who have traveled to foreign countries or interacted with foreign nationals. The subcontractor shall coordinate Counterintelligence Awareness training activities with the WSRC Procurement Representative. The Subcontractor shall immediately report targeting, suspicious activity and other Counterintelligence concerns to the WSRC Procurement Representative; and provide assistance to other elements of the U.S. Intelligence Community as stated in the aforementioned Executive Order, the DOE Counterintelligence Order, and other pertinent national and Departmental Counterintelligence requirements.

## **13. FOREIGN OWNERSHIP, CONTROL, OR INFLUENCE OVER CONTRACTOR**

- A. For purposes of this clause, subcontractor means any subcontractor at any tier and the term "contracting officer" shall mean DOE contracting officer. When this clause is included in a subcontract, the term "contractor" shall mean subcontractor and the term "contract" shall mean subcontract.
- B. The subcontractor shall immediately provide WSRC written notice of any changes in the extent and nature of FOCI over the subcontractor which would affect the information provided in the Certificate Pertaining to Foreign Interests and its supporting data. Further, notice of changes in ownership or control which are required to be reported to the Securities and Exchange Commission, the Federal Trade Commission, or the Department of Justice shall also be furnished concurrently to WSRC.
- C. In those cases where a subcontractor has changes involving FOCI, the DOE must determine whether the changes will pose an undue risk to the common defense and security. In making this determination, the Department of Energy shall consider proposals made by the subcontractor to avoid or mitigate foreign influences.
- D. If the contracting officer at any time determines that the subcontractor is, or is potentially, subject to FOCI, the subcontractor shall comply with such instructions as the contracting

officer/WSRC shall provide in writing to safeguard any classified information or special nuclear material.

- E. The subcontractor agrees to insert terms that conform substantially to the language of this article including this paragraph (e) in all lower-tier subcontracts under this subcontract that will require access authorizations for access to classified information or special nuclear material. Additionally, the subcontractor shall require such subcontractors to submit a completed SF328, to the DOE Office of Safeguards and Security (marked to identify the applicable prime contract). Such subcontracts or purchase orders shall not be awarded until the subcontractor is notified that the proposed subcontractors have been cleared. Information to be provided by a subcontractor pursuant to this clause may be submitted directly to the DOE contracting officer.
- F. Information submitted by the subcontractor or any affected lower-tier subcontractor as required pursuant to this clause shall be treated by WSRC/DOE to the extent permitted by law, as business or financial information submitted in confidence to be used solely for purposes of evaluating FOCI.
- G. The requirements of this clause are in addition to the requirement that a subcontractor obtain and retain the employee security clearances required by the subcontract. This clause shall not operate as a limitation on WSRC's rights, including its rights to terminate this subcontract.
- H. WSRC may terminate this subcontract for default either if the subcontractor fails to meet obligations imposed by this article, e.g., provide the information required by this article, comply with WSRC/DOE instructions about safeguarding classified information, or make this article applicable to lower-tier subcontractors, or if, in WSRC's judgment, the subcontractor creates an FOCI situation in order to avoid performance or a termination for default. WSRC may terminate this subcontract for convenience if the subcontractor becomes subject to FOCI and for reasons other than avoidance of performance of the subcontract, cannot, or chooses not to, avoid or mitigate the FOCI problem.

#### **14. COMPLIANCE WITH EMPLOYEE CONCERNS**

- A. Subcontractors shall ensure subcontractor employees are aware of the DOE-SRS and WSRC Employee Concerns Programs (ECP) and

how to use the program by performing the following:

- (1). Ensure employees are provided with information on the DOE-SRS and WSRC ECPs during initial orientation and annual training.
  - (2) Ensure that posters identifying the DOE-SRS and WSRC ECP telephone "hotline" numbers are displayed in conspicuous locations throughout the worksite. WSRC will provide posters, as necessary.
  - (3) Inform employees and subcontractor employees of the availability of the DOE-SRS ECP in case of dissatisfaction or lack of confidence with other reporting systems.
  - (4) Ensure managers and supervisors are aware of the prohibition of any reprisal against employees who have or are believed to have raised or reported concerns.
- B. Subcontractors must immediately notify the STR or the Procurement Representative of any employee concern involving:
    - (1) A condition which constitutes an imminent threat to the health and safety of site personnel or to the general public.
    - (2). Circumstances which would cause adverse public reaction or receive local media attention.
    - (3) Allegations of reprisal.
  - C. Subcontractors shall investigate any employee concern referred by the STR and inform the STR of investigation results within 7 days of receipt of concern. Inform the STR in writing if an extension to this 7-day timeframe is required, along with status of investigation to date and actions pending to closure. The investigation shall be conducted to the satisfaction of the WSRC Purchasing Representative.

#### **15. NON-PROLIFERATION**

If any item(s) provided under this Order are foreign made and will require importation into the United States to fulfill the requirements under this Order, the Supplier represents that delivery of such items will not violate any non-proliferation laws, rules or regulations of the country or countries from which the materials are to be exported.

#### **16. SCIENTIFIC AND TECHNICAL INFORMATION**

- A. Electronic submissions of technical reports will consist of two virus-free copies that are readable in the following formats:
  - (1) Text will be submitted in native software (that is compatible with the suite of

document creation software currently used at SRS) (fonts identified) or in RTF (rich text format).

- (2) Embedded objects and files that are linked to a document must be supplied as well, as follows:
  - (i) Raster images (for example, photographs) will be submitted as TIFF or EPS @ resolution > 100 dpi.
  - (ii) Vector art (for example, line art) will be submitted as EPS images.
  - (iii) Data-driven displays (e.g., spreadsheet charts) must be accompanied by data set used to generate them.

## **17. COPYRIGHTS FOR WSRC DIRECTED TECHNICAL PERFORMANCE**

Supplier shall cause its employee(s) to assign to WSRC all rights under the copyright in all works of authorship prepared at the direction of WSRC during the term of this Order. Supplier shall include terms in its arrangements with its employee(s) to require such assignments to WSRC. To the extent that such works of authorship are considered to be works made for hire for Supplier, Supplier agrees to assign and does hereby assign all of its rights under the copyrights in such works to WSRC or the U. S. Government.

## **18. GENERAL CONDITIONS OF EQUIPMENT RENTAL**

### **A. Rental Payments**

Upon the submission of proper invoices or vouchers, Westinghouse Savannah River Company (WSRC) shall pay, as full compensation for use of the Equipment, rent at rates set forth in the order to which these General Conditions are attached. Payments will be made at the end of each month or at the end of the rental, whichever occurs first, for rental accrued during the previous rental period.

### **B. Rental Rates**

- (1) The actual length of the rental period will establish the Base Rental rate (for example, if the Lessor's proposal included a daily, weekly, and monthly rate, and the actual rental period was three days - the daily rate would apply; if the actual rental period was ten days - the weekly rate would apply; and if the actual rental period was 40 days - the monthly rate would apply). The Base Rental Period shall be as in column 1 below. For portions of a rental period beyond one or more full Base Periods, rental shall be calculated by the fractional period multiplied by the Base Rental rate. The Fractional Periods are specified in Column 2

below. Base Rental rates contemplate the following maximum use: Day - 8 hrs. (or as stipulated at time of rental); Week - 40 hrs; and Month - 176 hrs. For each hour that the Equipment is in use in excess of the applicable contemplated operation, there shall be paid as rental a sum equal to the Base Rental rate multiplied by the overtime rate in Column 3 below.

- (2) Should the total rental calculated on the applicable Base Rental rate, exclusive of overtime, exceed the proposed rate for the next longer rental term the lesser rental shall be paid.

	Column 1	Column 2	Column 3
<u>Rental Term</u>	<u>Base Rent Period</u>	<u>Fractional Period</u>	<u>Overtime Rate</u>
Mnthly	1 cal mth	.0455xmnthly = rt/day	.0057x mnthly = rt/hr
Wkly	7 cons dys	.20 x wkly = rt/day	.025 x wkly = rt/hr
Daily	24 cons hrs	.125 x dly = rt/hr	.125 x dly = rt/hr
Hourly	1 oper hr	1 hour	1 hour

### **C. Condition of Equipment**

- (1) When delivered to job site, the Equipment shall be in condition to render efficient, economical, and continuous service and its condition shall comply fully with all applicable Federal and State statutes and any regulations issued thereunder. Each item of Equipment shall be inspected, tested, and inventoried by Lessor and WSRC at job site upon arrival and immediately prior to return shipment. A joint written report shall be made and copies filed with each of the parties. Lessor shall accept WSRC's report in the event the Lessor fails to participate in such inspections. Such inspections and reports shall fix and determine the rights and obligations of the parties with reference to the condition of the Equipment.
- (2) If WSRC determines that any equipment furnished does not comply with this purchase order, WSRC shall promptly inform the Lessor in writing. If the Lessor fails to replace the equipment or correct the defects as required by WSRC, WSRC may
  - (i) By contract or otherwise, correct the defect or arrange for the lease of similar equipment and shall charge or set off against the Lessor any excess costs occasioned thereby, or



- (ii) Terminate the purchase order under the Termination for Cause article of this order.
  - (3) WSRC shall make repairs or, at its option, shall reimburse Lessor for repairs due to damage caused by exceeding manufacturer's rated capacities. All other repairs attributable to equipment failure shall be Lessor's responsibility. Should Equipment become inoperative because of necessary repairs which are the Lessor's responsibility, rental period will discontinue upon WSRC's notification to the Lessor of such conditions, and rental period will resume only when Equipment is placed in a condition as required under this Section 3. WSRC will notify Lessor prior to making repairs for the account of the Lessor. Unless otherwise specified in the order, WSRC will furnish all fuel and lubricants and all operators and mechanics for necessary operation, use, and servicing of the Equipment.
  - (4) Equipment, when returned to Lessor, shall be in as good condition as when delivered at job site, usual and ordinary wear and tear excepted.
- D. Rental Period
- (1) The period for which rental is payable for an item of Equipment shall begin on the date Equipment is delivered to the job site, except that if WSRC gives a definite required delivery date to the Lessor prior to shipment, the Rental Period shall not start until such date. However, rent shall accrue only for the period that the equipment is in the possession of WSRC. The Rental Period shall end when the equipment is delivered for shipment to the point of origin or such other return point as may be designated by Lessor, such delivery to be evidenced by a Bill of Lading or other similar evidence covering shipment. If Lessor fails to notify WSRC of destination prior to time Equipment is ready for return shipment, no rental time shall accrue until such notification is given WSRC and Equipment is loaded for Shipment.
  - (2) If Equipment is not in required condition, as determined by WSRC, when it arrives at the job site, the Rental Period shall not begin until it shall, at the expense of Lessor, have been placed in proper condition.
  - (3) If the inspection report made immediately prior to return shipment establishes that the Equipment is not in condition required of WSRC under the fourth paragraph of
- Section C of these conditions, WSRC shall do all things necessary to place it in such condition and the Rental Period shall not terminate prior to placing the Equipment in such condition.
- (4) Unless otherwise stated in the order, WSRC makes no representation or guarantee as to the length of the Rental Period or the amount of rental, which will accrue, for any Equipment, it being the intent that the Equipment may be rented for as long as WSRC requires. The rental of any Equipment which does not perform to WSRC's satisfaction may be terminated upon notice by WSRC to Lessor.
- E. Transportation Costs
- If so stated in the order, transportation will be paid by WSRC F.O.B. original point of shipment and return transportation F.O.B. to original point of shipment or equivalent mileage. Transportation of Equipment shall be accomplished by the most economical means and there shall be paid the actual cost of such transportation. No transportation charges will be paid by WSRC for any Equipment which WSRC determines is not in the condition required by Section C.
- F. Loading, Unloading & Transport of Self-Propelled Medium or Heavy Construction Equipment.
- Lessor shall ensure that any activity involving the loading, unloading, and transport of self-propelled medium or heavy construction equipment on the Savannah River Site (i.e., upon delivery and pickup by the Lessor) is performed in a manner that provides for the safety of all personnel involved in the process. Prior to performing any such activities the Lessor shall read and complete the WSRC "Self Propelled Equipment Loading, Unloading and Transport Safety Review Checklist", and provide a copy to the WSRC Portable Equipment Commodity Management Center (PECMC) representative on delivery of the equipment to SRS and also before equipment is loaded for return to the Lessor. A Copy of the checklist can be found on the SRS Home Page or can be provided by the WSRC Procurement Representative on request.
- G. Liability Provisions
- By acceptance of the order to which these Conditions apply, Lessor agrees that
- (1) Lessor assumes and hereby relieves WSRC of any and all liability for any loss or damage to the Equipment rented to WSRC occurring during the period from the date of shipment to WSRC to the date of return to

Lessor as the result of any cause other than the sole fault or negligence of WSRC;

- (2) WSRC's liability under this provision shall be limited to the fair market value of the Equipment taking into consideration its age and condition immediately prior to said loss or damage.

#### H. Recapture Provisions

Note: Optional and in effect only if so stated in the terms and conditions of the order.

- (1) If this provision is applicable,
  - (i) a recapture valuation mutually agreeable to WSRC and Lessor shall be established and stated in the order
  - (ii) Lessor certifies that there are no encumbrances of any nature, legal or equitable, held by any person against the Equipment rented hereunder, unless so stated in the order.
- (2) At any time during or at the end of the rental period of the Equipment, WSRC may purchase the Equipment by paying to Lessor the difference between such valuation and total rental paid, plus a charge to cover interest at a rate specified in this order for the unpaid balance of the equipment valuation for each month or fraction thereof that such Equipment has been under rental to WSRC. Title to such Equipment shall then vest in WSRC and Lessor shall deliver to WSRC such instruments of title as WSRC may require, free of any and all liens and encumbrances.

#### I. Equipment Operated and Maintained

The following provisions shall be applicable if Equipment is rented on the basis of operation and maintenance by the Lessor:

- (1) All rental rates stipulated in this order include all charges for operation and maintenance of the Equipment by Lessor.
- (2) Lessor has qualified or will promptly qualify and will make all payments under the terms of the unemployment compensation laws of the state in which the Equipment will be operated. In addition, Lessor will, at Lessor's expense, carry insurance in minimum limits as specified in the Article titled "Work on WSRC, Government or other Premises", included in these Terms and Conditions.
- (3) Lessor shall obtain WSRC's prior approval before employing any subcontractors. Each subcontractor must also carry insurance as specified in subparagraph (2), supra. Lessor shall carry Contractor's Protective Public Liability, Bodily Injury, and Protective

Property Damage insurance of the same minimum limits.

- (4) Lessor shall be responsible for all persons engaged to operate or maintain the Equipment or to perform any other work Lessor is obligated to perform under this purchase order. None of said persons shall constitute employees of WSRC.
- (5) In the operation of the Equipment, Lessor shall comply with all Federal, State, and local regulations and with all safety regulations in effect on the WSRC site. In addition, Lessor shall
  - (i) Comply with recognized safety practices for the type of work being performed including the furnishing of necessary safety equipment
  - (ii) Conduct and protect operations in such a manner as to avoid exposing others to injury.
- (6) Lessor shall ensure that all equipment operators have appropriate qualifications and experience for operating the specified equipment, to include any applicable State, Federal or local licenses or certifications.

#### J. Notices

Any notice to be given hereunder shall be mailed to the party to be notified, at the address set forth in the order, by registered mail, and shall be deemed given when so mailed.

#### **\*19. SERVICE CONTRACT ACT OF 1965 AS AMENDED (MAY 1989)**

*Incorporated by Reference FAR 52.222-41*

#### **\*20. SERVICE CONTRACT ACT (SCA) MINIMUM WAGES AND FRINGE BENEFITS (MAY 1989)**

*Incorporated by Reference FAR 52.222-47*

#### **\*21. STATEMENT OF EQUIVALENT RATES FOR FEDERAL HIRES (MAY 1989)**

*Incorporated by Reference FAR 52.222-42*

#### **\*22. FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MULTIPLE YEAR AND OPTION CONTRACTS) (MAY 1989)**

*Incorporated by Reference FAR 52.222-43*

#### **\*23. FAIR LABOR STANDARDS ACT AND SERVICE CONTRACT ACT - PRICE ADJUSTMENT (MAY 1989)**

*Incorporated by Reference FAR 52.222-44*

**\*24. GOVERNMENT PROPERTY  
FURNISHED "AS IS" (APR 1984)**

*Incorporated by Reference* FAR 52.245-19,

**\*25. UTILIZATION OF SMALL BUSINESS  
CONCERNS (OCT 1999)**

FAR 52.219-8

**\*26. SMALL BUSINESS SUBCONTRACTING  
PLAN (OCT 1999)**

*Incorporated by Reference* FAR 52.219-9

**\*27. RIGHTS IN DATA – GENERAL (JUN  
1987)**

*Incorporated by Reference* FAR 52.227-14 as  
modified pursuant to DEAR 927.409(a)(1)

**\*28. CLASSIFICATION/  
DECLASSIFICATION (SEP 1997)**

*Incorporated by Reference* DEAR 952.204-70

**\*29. FILING OF PATENT APPLICATIONS-  
CLASSIFIED SUBJECT MATTER (APR  
1984)**

*Incorporated by Reference* FAR 52.227-10